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FROM : Department of State

DATE:

SUBJECT : Law of the Sea and Seabed Matters

REF : State 079318

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Department believes it will be important to the long-run success of the President's May 23 proposal on the seabeds (text transmitted in State 079318) for all addressees to be prepared to discuss the proposal and to gain support for it. In discussing the proposal with host governments, addressees should point out advantages the proposal offers both to the international community and to individual states.

Department appreciates reports already sent in on preliminary reactions by a number of host governments.

The following documents are attached which addressees may find useful in discussing the President's proposal and US initiative on LOS issues:

(1) Undersecretary Richardson's May 27 testimony before the Special Senate Subcommittee on the Outer Continental Shelf, relating to President Nixon's statement of May 23 on seabeds (caveat: The Under Secretary's remarks were designed for use before a legislative committee and some of their emphasis and language may not be suitable for use with host governments, particularly in developing countries; the remarks should therefore be used only for broad guidance by posts and should not be handed out to

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PA/HO Department of State
E.O. 12958, as amended
July 12, 2005

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host government representatives);

(2) "Questions and Answers" concerning the President's seabeds proposals, to be drawn upon by posts but not handed to host governments;

(3) A factsheet prepared for newsmen at the time of the President's May 23 statement on seabeds, which summarizes the physical characteristics of the seabed and legal background, copies of which may be handed to host government representatives for their information;

(4) A schematic representation of the seabed proposal;

(5) A speech entitled "International Law and the Oceans", delivered by John R. Stevenson, The Legal Adviser, on February 18, 1970, regarding our initiative on the law of the sea issues.

The United States is actively pursuing two separate initiatives, one relating to law of the sea issues which involve the waters above the seabeds and the other to the seabeds themselves, and posts should ensure that host governments are not confusing the two. Our specific law of the sea policy objective is to secure at the earliest practicable time and under United Nations auspices an international treaty which would (1) fix the maximum extent of the territorial sea at 12 nautical miles; (2) ensure freedom of transit through and over international straits; and (3) recognize special fishing interests of coastal states off their coasts. With regard to seabeds, our recently announced objective is to obtain agreement on an international treaty under which nations would renounce national claims to seabed resources beyond the point where the high seas reach a depth of 200 meters and would regard such resources as the common heritage of mankind; specifically, President Nixon has proposed that (1) within a trusteeship zone extending from the 200 meter depth line to the seaward edge of the continental margin, coastal nations would act under the authority of the treaty regime as trustees for the international community, receiving in return a portion of revenues derived from exploitation of that zone; (2) beyond the trusteeship zone, authorization and regulation of exploitation of seabed resources would be carried out directly by international machinery; and (3) as an interim policy, all nations should issue exploration and exploitation

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permits beyond the 200 meter isobath subject to the provisions of the future international regime and turn over a substantial portion of such exploitation revenues for assistance to developing countries.

While the two initiatives are in no way inconsistent with one another, they should not be regarded as a single "package", and their technical aspects should not be confused. The two initiatives do bear a relation to one another, however, in that (1) both are designed to relieve uncertainties in existing international law, (2) both are intended to limit escalating claims of national jurisdiction, and (3) both represent a practical balancing of coastal state and international interests.

In soliciting comments on the seabeds proposal, posts should bear in mind the specific factors which will help to determine the host government's interests in this area: e.g., whether the nation is coastal, land-locked, or shelf-locked (i.e., so situated on closed shallow seas that a nation would gain little or nothing from national jurisdiction over the seabeds beyond 200 meters); the extent of its continental margin; its expectation of mineral resources in the margin; the state of its technology; its general state of development (i.e., whether it is a potential donor or beneficiary under the international revenues aspects of the proposal); its attitude on other oceans policies, such as the extent of the territorial sea and preferential fishing interests; etc. Such factors should be borne in mind in studying the attachments, in order to clarify which aspects should be emphasized in discussion with host governments.

FOR EMBASSY'S BACKGROUND ONLY

FYI. The President's seabed policy is an attempt to meet three important U.S. policy objectives by offering an alternative to territorial sea claims by coastal states who wish to gain control of seabed mineral resources off their coasts. First, we seek to establish a rule of law on the oceans to prevent the seabeds from becoming an area of future conflict. Secondly, the proposal would not minimize U.S. access to mineral resources of the U.S. continental margin as it provides for U.S. administration of seabed resources in the continental margin off the United

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States. In addition, the international regime will establish basic norms for the exploitation of the world's continental margins beyond 200 meters as well as machinery for dispute settlement. In other words, United States technology and capital will operate under a uniform set of internationally agreed standards throughout the world. Third, the proposal seeks to limit exclusive sovereign rights on the seabed to that point at which the high seas reach a depth of 200 meters. This has important implications for United States national security. One of the great threats to the United States strategic posture has been the potential limits on military mobility caused by unilateral assertions of jurisdiction by coastal states over large areas of the high seas, seabed and air space off their coasts. It is hoped that the President's seabed proposal, by extending the coastal state administrative control under trusteeship arrangements over the exploitation of the resources of the entire continental margin off its coasts will remove part of the incentive for unilateral claims. The fact that such claims would be at the expense of international revenues for developing countries should also create general international pressure against such claims.

We hope to formulate specific proposals based on the President's May 23 announcement in advance of the August Seabeds Committee meeting. While we do not wish to prod governments into taking premature positions on a seabeds regime, we would appreciate receiving any views they may have at this point. END FYI.

ROGERS

Attachments:

1. Under Secretary Richardson's statement of May 27
2. Questions and Answers
3. Factsheet
4. Legal Adviser's speech dated February 18, 1970
5. Rough schematic representation of seabed proposal.

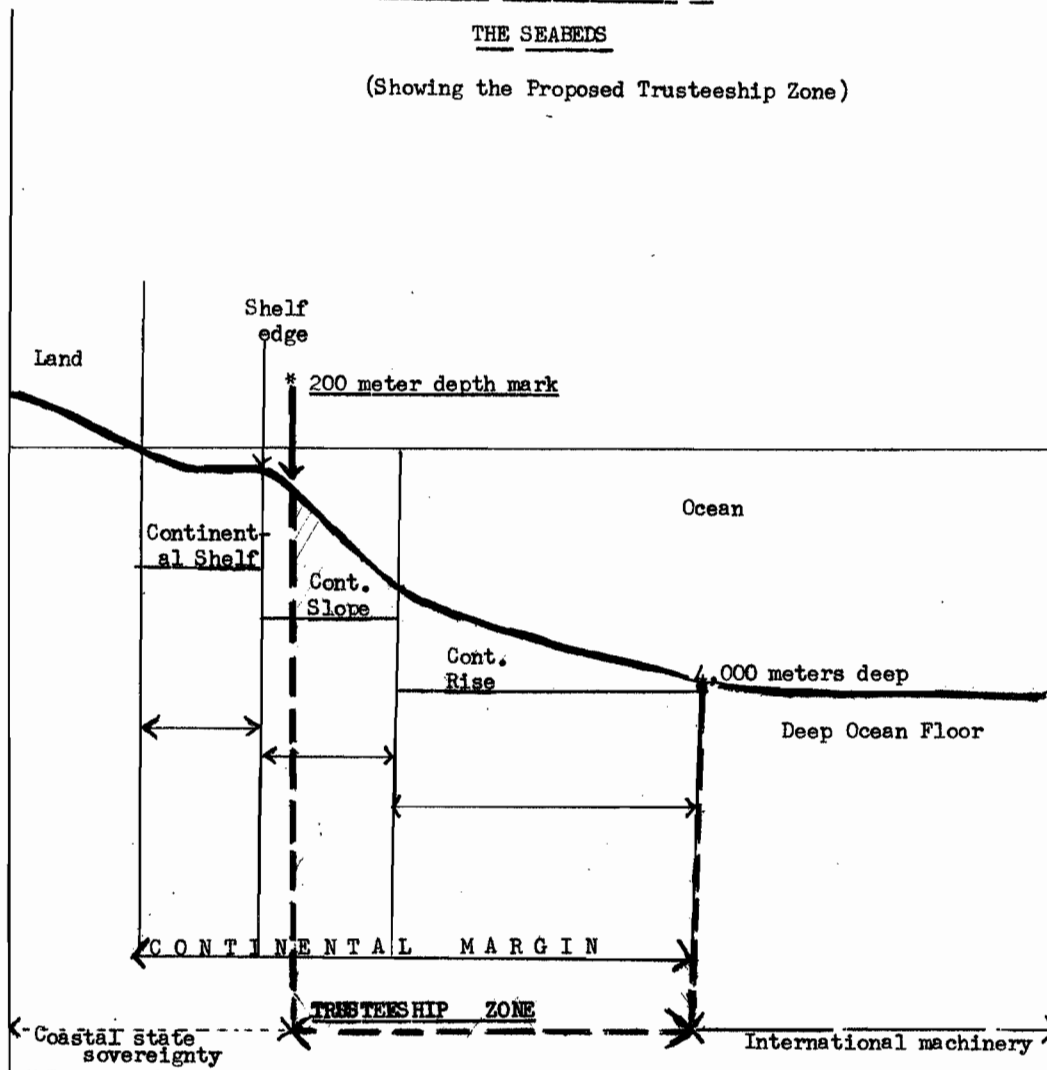
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SCHEMATIC REPRESENTATION OF

THE SEABEDS

(Showing the Proposed Trusteeship Zone)



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